

# HOUSE BILL 420

M4

(0lr0041)

## *ENROLLED BILL*

— *Environmental Matters/Education, Health, and Environmental Affairs* —

Introduced by **Chair, Environmental Matters Committee (By Request – Departmental – Agriculture)**

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this

\_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_\_ M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Secretary of Agriculture – Mosquito Control – Enforcement Authority**

3 FOR the purpose of authorizing the Secretary of Agriculture to issue and serve a  
4 mosquito abatement order on certain persons under certain circumstances;  
5 ~~authorizing the Secretary to enter on and inspect private property for certain~~  
6 ~~purposes~~; authorizing the Secretary to bring action for injunctive relief under  
7 certain circumstances; establishing ~~a certain penalty~~ penalties for any person  
8 who violates a mosquito abatement order issued by the Secretary; and generally  
9 relating to mosquito abatement by the Department of Agriculture.

10 BY adding to

11 Article – Agriculture

12 Section ~~5-406~~ through ~~5-409~~ 5-408

13 Annotated Code of Maryland

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**EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.**

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

*Italics* indicate opposite chamber/conference committee amendments.



(2007 Replacement Volume and 2009 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

**Article – Agriculture**

**5-406.**

(A) IF THE SECRETARY, ~~AFTER CONSULTING~~ IN COOPERATION WITH THE LOCAL HEALTH AUTHORITY, FINDS THAT A PERSON IS CAUSING OR ALLOWING MOSQUITOES TO BREED OR DEVELOP ON ANY PROPERTY IN A MANNER THAT MAY POSE A THREAT TO PUBLIC HEALTH, THE SECRETARY MAY ORDER THAT THE PERSON ABATE THE MOSQUITO HABITAT IN A MANNER AND AT A TIME SPECIFIED IN THE ORDER.

(B) AFTER ALL REASONABLE ATTEMPTS OF ABATEMENT HAVE FAILED, AN ORDER ISSUED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION SHALL BE SERVED:

(1) ON THE PERSON WHO IS CAUSING OR ALLOWING MOSQUITOES TO BREED OR DEVELOP; OR

(2) IF THE PERSON WHO IS CAUSING OR ALLOWING THE MOSQUITOES TO BREED OR DEVELOP CANNOT BE FOUND, ON THE OWNER OR OCCUPANT OF THE PROPERTY WHERE THE MOSQUITOES EXIST.

~~5-407.~~

~~AFTER MAKING A REASONABLE ATTEMPT TO LOCATE THE OWNER OR TENANT ON THE PREMISES FOR PERMISSION TO ENTER AND GIVING THE OWNER OR TENANT A REASONABLE AMOUNT OF TIME TO RESPOND, THE SECRETARY MAY ENTER ON AND INSPECT, AT ANY REASONABLE HOUR, ANY PRIVATE PROPERTY, EXCLUDING A DWELLING, TO DETERMINE WHETHER MOSQUITOES ARE BREEDING OR DEVELOPING.~~

~~5-408.~~ 5-407.

(A) THE SECRETARY MAY BRING AN ACTION FOR AN INJUNCTION AGAINST ANY PERSON VIOLATING ANY ORDER ISSUED BY THE SECRETARY UNDER § 5-406 OF THIS SUBTITLE.

1           **(B) IN ANY ACTION FOR AN INJUNCTION BROUGHT UNDER THIS**  
 2 **SECTION, ANY FINDING OF THE SECRETARY AFTER A HEARING SHALL BE PRIMA**  
 3 **FACIE EVIDENCE OF EACH FACT FOUND.**

4           **(C) ON A SHOWING BY THE SECRETARY THAT ANY PERSON IS**  
 5 **VIOLATING OR IS ABOUT TO VIOLATE ANY ORDER ISSUED BY THE SECRETARY,**  
 6 **AN INJUNCTION SHALL BE GRANTED WITHOUT THE NECESSITY OF SHOWING A**  
 7 **LACK OF ADEQUATE REMEDY AT LAW.**

8           **(D) AN INJUNCTION INSTITUTED UNDER THIS SECTION SHALL BE**  
 9 **ISSUED WITHOUT BOND.**

10 ~~5-409.~~ 5-408.

11           **A PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF AN**  
 12 **ORDER SERVED UNDER § 5-406 OF THIS SUBTITLE IS GUILTY OF A**  
 13 **MISDEMEANOR AND ON CONVICTION IS SUBJECT TO:**

14                   **(1) FOR A FIRST OFFENSE, A FINE NOT EXCEEDING \$1,000; AND**

15                   **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, A FINE NOT**  
 16 **EXCEEDING \$5,000.**

17           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act does not**  
 18 **increase the duties or responsibilities of local health authorities to engage in mosquito**  
 19 **control activity.**

20           **SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
 21 **October 1, 2010.**

Approved:

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Governor.

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Speaker of the House of Delegates.

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President of the Senate.